

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 2476 of 2006

Devendra Singh Sahani ..Petitioner

VS.

Prakash Vishnudas & Anr. ..Respondents

Shri Swapnil Bangar i/b M/s LJ Law for petitioner
Shri C.P.Deogirikar for respondent no.1.
Shri G.V.Murti for respondent no.4.

CORAM: S.B.MHASE J.
19th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. Chamber Summons No.108 of 2006 in Long Cause Suit No.5308 of 2003 is rejected by order dated 27th February, 2006 by the City Civil Court. That order is challenged in the present petition. The petitioner/original applicant has prayed that he should be joined as party defendant in L.C.Suit No.5308 of 2003. The said suit was filed by respondent No.1 as against respondent nos. 2 to 4. Respondent nos. 2 and 3 are the members of respondent no.4 society. The petitioner/original applicant is a co member of a flat along with respondent no.3. The work of certain construction of the society has been given by respondent no.4 society to respondent no.1/original plaintiff. However, since respondent nos. 2 and 3 being the members of the said society have obstructed to the work assigned by the said society and suit has been filed

by respondent no.1 as against respondent nos.2, 3 and 4. It is to be noted that there are several other members of respondent no.4 society. However, since they are not obstructing they are not made parties to the suit. When this Court repeatedly asked the present petitioner whether he desires to obstruct the construction he stated that he is not obstructing to the said construction, however, he says that he will be affected by the order passed in the said suit. When he is a member of respondent no.4 society and if respondent no.4 society has assigned the work in respect of the construction to respondent no.1, unless and until the petitioner has any objection to the same the petitioner is not a necessary party to the suit wherein the cause of action arose as a result of obstruction of a person to the construction work. It is well settled principle that the suit has to be filed against a person obstructing. In the present matter the petitioner who wants himself to be joined as party defendant is the member of respondent no.4 society who is on record to secure the interest of the present petitioner. The petitioner has nothing to do in the suit. The chamber summons has been rightly rejected. No interference is called for. Petition is rejected.

(S.B.MHASE J.)